

Approved August 18, 2007 at the
Hassayampa Inn in Prescott, Arizona.
Motion by Ron Bemis, second by Randy
Lamb, approved as presented by
unanimous vote.

Heritage Fund Public Advisory Committee Meeting

Meeting Minutes
January 20, 2007
Glendale Civic Center
Glendale, Arizona

Committee Members:

Bob Hernbrode, Tucson (Chairman) - Present
Paul Gomben, Show Low – Present
Ron Smith, Pinetop-Lakeside - Absent
Clair Harris, Flagstaff - Present
Maggie Sacher, Marble Canyon - Present
Jim Jett, Kingman – Present
Randy Lamb, Prescott - Present
Nick Heatwole, Yuma - Present

Valerie Morrill, Yuma - Present
Ron Bemis, McNeal – Present
Roseann Hanson, Tucson - Present
Tony Nelssen, Scottsdale - Present
Gary Barcom, Payson - Present
Heidi Vasiloff, Goodyear - Present
Brian Pinney, Chandler - Present
Dr. Jack Miller, Gilbert - Present

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1. **Call to Order and Opening Remarks:** Commissioner Bob Hernbrode, Chairman called the meeting to order at 8:00 a.m. Commissioner Hernbrode announced that he had been reassigned to the Heritage Fund Public Advisory Meeting for another year at the January 19, 2007 Commission Meeting.
 2. **Introductions**
 - a) **Committee Members:** Chairman Hernbrode asked Committee members to introduce themselves.
 - b) **Department Representatives:** Deputy Director Steve Ferrell, Heritage Fund Administrator Ashley Ross, and other present department staff introduced themselves.
 3. **Approval of Minutes from August 2006:** Upon motion by Jim Jett and seconded by Randy Lamb, the minutes were unanimously approved.

Presenters: Janice Miano, Director of Administration, Heritage Alliance, gave a presentation outlining the efforts of the Heritage Alliance to protect, preserve and enhance the Arizona Heritage Fund. Ms. Miano first presented a brief history of the Heritage Fund. Arizona is one of 40 states to raise revenue through a state lottery. Since inception, the Heritage Fund has reinvested over \$288 million into Arizona's resources. However, it has not been fully funded every year. Ironically, almost immediately after the Heritage Fund was implemented, it was threatened with extinction. Over the past 16 years, there have been over 33 legislative attempts to divert the funds. They were successful only once in 2003, when \$10.4 million was taken from the Arizona Game and Fish Department Acquisition fund and split between Arizona State Parks for operations and the Arizona Land Department for fire suppression.

The Arizona Heritage Alliance was formed in 1992 as a response to legislative efforts to divert the Heritage Fund by the same broad base of people and organizations who had come together to pass the initiative that created the Heritage Fund. The Heritage Alliance is made up of individuals, groups, government, tribal entities, and businesses that work together to maintain the long term viability of the fund. The Alliance members reflect interests that encompass outdoor sports, environmental conservation, and historic preservation. The Alliance's goals are to educate the general public and Alliance members throughout Arizona about the Heritage Fund, oversee

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legislative activity and agency interaction, and most of all to protect the effectiveness of the Heritage Fund. An ever increasing array of projects and program are initiated and new programs are being evaluated, all of the additions, enhancements and natural, cultural and historical amenities create matching funding, more tourism, new businesses, increased property values and a general overall improvement in the lives of Arizonans.

The Alliance believes that in order to ensure a successful future, changes need to occur in the formulation of the Heritage Fund. The Heritage Fund lags way behind the inflation rate. Twenty million dollars in 1990 does not buy twenty million dollars in 2007. More dollars are needed. The Heritage Fund needs to be brought under the voter protection act, which would end the almost perennial attacks by elected officials. The Alliance is currently exploring the idea of crafting a voter initiative in 2008 that will do all these things.

The Committee comment and discussion asked what the timeframe for the initiative was. The Alliance is currently putting together questions for a polling survey in order to determine a source of income besides the lottery. A rough draft of the initiative should be available by March or April of this year. Concerns were expressed regarding the lack of knowledge by store employees who sell lottery tickets as to what games benefit the Heritage Fund. Ms. Freeman, AGFD PIO, mentioned that that concern would be addressed during her presentation.

Clarification of the Voter Protection Act and its relation to the Heritage Fund was requested. In 2004, the Voter Protection Act, Proposition 104 was passed and it states that: (1) the legislature shall not have the power to repeal an initiative measure approved by a majority of the votes; (2) the legislature shall not have the power to amend an initiative measure approved by a majority of the votes; and (3) the legislature shall not have the power to appropriate or divert funds created or allocated to a specific purpose by an initiative measure approved by a majority of the votes. Once the Heritage Fund is protected under this legislation, it will help protect the Heritage Fund from legislative changes. This bill will be sponsored by voter initiative and it will need signatures to get it on the ballot, as well as volunteers to get the signatures and at least \$1 million to be successful.

The importance of current and former HPAC member involvement with the Heritage Alliance and the support of those members as well as many others across the state was stressed. When the proposition is crafted, the Alliance may ask HPAC members to go to their communities, their cities and towns, and ask people to join the Alliance and to be on the Board of Directors. HPAC members asked if there was a list of cities, towns and organizations that were already members of the Alliance. Ms. Miano will make inquiries about posting a list on their website (<http://azheritage.org/index.shtml>) or through email.

HPAC members asked about how much support HPAC and the Department could contribute to the initiative. The initiative will be a volunteer-driven political campaign, so direct donations to the campaign would not be tax deductible, but donations to the Heritage Alliance are. Legally the Department cannot promote the initiative, however, it is all right for HPAC members to lobby their legislative representatives because they are Department volunteers. This will be a real opportunity for HPAC members to contribute to the initiative by speaking to community members and lobbying

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legislative representatives. The Alliance will supply information materials to support HPAC efforts to promote the new initiative.

Committee recommendation to the Commission: Upon motion by Jim Jett, second by Randy Lamb, the Committee recommends endorsement and support for the Heritage Alliance initiative. Motion passed by majority vote.

4. **Presenter:** Tony Guiles, AGDF Legislative Liaison, presented an update on legislative business affecting the Heritage Fund and the Department. Members received a list of all the Arizona Legislators, listed by district and it contains a brief biography and contact information for each legislator. The book that discusses all the new legislators has not been completed yet. Also included in the packet of materials is a report that lists all the Heritage Fund grant projects from 1992 to 2006 by legislative district. These are good tools to have and to communicate with legislators. It is important to contact the local legislators and find out how they feel about the Heritage Fund, and then to relay the interesting bits of that conversation back to the Department. If there is a threat to the Heritage Fund, the Department will need the help of HPAC to try to make sure they do not take money away from the Heritage Fund. On the legislative front, the Department has gone through the initial budget committee hearing, and the legislative recommendation was to fund only half of their new budget request. A budget hearing will be held at 9:00 AM on Monday January 22, 2007. The Department has spent a lot of time speaking with legislators about the budget cuts. The budget approval process starts with the subcommittee on Natural Resources and Education which makes a recommendation to the full appropriations committee. The joint subcommittee includes: Senator Flake, Senator Aboud, Senator Huppenthal, Representative McLain, Representative Lujan, Representative Clark, Representative Schapira, Representative Adams.

There are identical bills that have been introduced from both branches of the legislature that will allow certain monies that come through the lottery to be used for other purposes above and beyond what is currently received. One proposed use is for primary care facilities and the other destroyed homes prevention fund. This is a warning call because anytime legislature begins to change a statute or the formulas it is based on other components can change.

Committee comment and discussion asked about legislator rating systems. Several organizations exist that routinely rate legislators on issues. The Heritage Alliance has put together a questionnaire that asks how they feel about the Heritage Alliance and the Heritage Fund. When the results have been compiled, the Alliance will post the results. HPAC members asked if their presence at the budget hearing would be helpful. Unlike last week's hearing where testimony was heard, this next hearing would not take testimony and would only ask specific questions about the budget items from the Department. Members asked if it would be helpful for them to contact their local legislator over the weekend by telephone or email. It would be helpful if HPAC members could contact their legislators, especially by telephone, regarding the budget request. The only funds that are in question are the appropriated funds (Watercraft and the Game and Fish Fund).

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- 6. Presenter:** Debbie Freeman, AGFD PIO Section Supervisor, gave a brief summary of the public information efforts the Department has worked on over the past 12 months. Highlights included a brief introduction of the new Heritage PIO, Lynda Lambert. Awards in 2006 included National Awards from Association for Conservation Information (ACI) for the Mountain Lion Awareness Campaign; Heritage Fund Brochure; Bats of Arizona Poster; Focus: Wild Arizona; and Arizona Breeding Bird Atlas.

Game and Fish Department personnel participated in community events across Arizona such as the Arizona State Fair, Tres Rios Nature Festival, International Sportsman's Expo, and National Hunting and Fishing Day and other key events. Hundreds of Heritage related articles and news articles highlighted the Heritage Fund programs and activities across Arizona, as well as promoting the Heritage Fund Grant Program and workshops.

New publications included the Reptiles and Amphibians in Arizona , a new rattlesnake poster, bear awareness and urban javelina brochures and information materials. The Heritage website was improved and has easier accessibility through a direct link (www.azgfd/heritage.gov). The Department is also emphasizing the new Urban and Watchable Wildlife website and publication. Efforts in 2007 will concentrate on showing that Watchable Wildlife is a huge source of revenue for the Department. A new Heritage video was produced that will be shown at the Grant workshops, new HPAC orientations as well as for other interested groups. It provides a good overview of what the Heritage Fund is. It is about nine minutes long and gives a good idea of projects and activities supported by the Heritage Fund.

Of great interest is the new cooperative campaign celebrating the 25th Anniversary of the Arizona Lottery. The campaign is entitled "Where the Money Goes" and includes new literature and commercials produced in conjunction with the campaign and prizes/promotions for license holders, trip giveaways, and a video produced by Channel 15 that highlights the Arizona lottery and the Heritage Fund. The Arizona Lottery website and the Arizona Game and Fish Department website have links that allow access to each other's sites and what games contribute to the Heritage Fund.

Committee comment and discussion began with a brief discussion about Department promotion and activities associated with the Mountain Lion and Bear Awareness campaigns. Ms. Freeman informed the Committee that in potential problem wildlife areas, the Department went door to door and delivered campaign materials. Members asked if there had been a noticeable return on the effort. As a part of the campaign, a pre-survey and a post-survey were conducted there was an average of a 5% shift in all the questions in the survey from this one six month campaign. Members asked about receiving copies the Heritage Fund video. Ms. Freeman informed the members that copies were available on DVD or VHS and copies are available for HPAC members. Members stated that the email notices were very effective and they thought it was a great communication tool. The Chairman commended Ms. Freeman and her people for their work on the video and all the other quality products, such as the Wildlife Views Magazine.

- 7. Presenter:** Jeff Sorenson, Invertebrate and Native Fish Program Manager, presented information describing the Arizona Game and Fish Department Comprehensive Wildlife

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Conservation Strategy (CWCS), which is the Department's 10 year vision for managing Arizona's fish, wildlife and natural habitats. The history of the CWCS goes back to 2003, when a nationwide coalition of interested parties such as State wildlife agencies, federal partners, NGO's, sportsmen's groups, environmental groups and other interested parties made a push to take the Conservation Reinvestment Act through legislation and solidify it into the State Wildlife Grant Program (SWG). Through this Congress stipulated that all state wildlife agencies and territories had to develop their own CWCS plan. The plan would stipulate how the state agencies were going to spend the SWG dollars.

Development of the CWCS required input from public meetings, public comments, workgroup participants, panels and teams. Every state agency has included the following eight elements: fish and wildlife species; habitats and their condition; threats and information needs; conservation actions and objectives; monitoring and evaluation; review process; coordination with land management entities; and broad public participation. These common elements help us to do joint projects across state borders and tie-in regionally for such projects as migrational species. It also creates a common language and common ideas when communicating across agencies and partners.

The CWCS plan is at the landscape-level, so it is based on the habitats that support our wildlife communities. This allows the Department to work at many different levels, depending upon our partners. Determining spending priorities required evaluating over 800 wildlife species that Arizona Game and Fish has jurisdiction over. Focus is on the 'vulnerable' species, of which there are around 300 in Arizona. The Department can work towards helping the species of greatest conservation need by using a 3-tier approach to the prioritization.

A number of stressors and threats to Arizona's wildlife and natural habitats have been identified, primarily the loss of habitat due to development, fragmentation and increased use (human caused effects). The CWCS has thousands of specific conservation actions to address many of the threats and stressors identified through the plan. Many of the actions were not intended for Department implementation, but were developed with our partners so that they can implement them. The Department is then the technical advisor or the support for the partners/implementers. Various resources that are used include the Arizona Wildlife Habitat Linkages plan, The Nature Conservancy Priority Conservation Areas, Audubon's Important Bird Areas (IBA's), and other regional land use plans. Another resource that is available for local governments, developers, contractors is the new Arizona HDMS Online Environmental Review Tool. The tool has the same threat language, species and actions as CWCS, so the plan is integrated into ways where the public and our customers can use the plan.

Committee comment and discussion began with a discussion on the basic tenets of the SWG program and if Mr. Sorenson was aware of anything that is similar for plants, as that is where there seems to be a gap in our natural resource stewardship. There is not anything in Arizona. When Congress made the 8 elements they focused on wildlife. However, by working on a landscape level, the plant components of the ecosystem can be addressed indirectly by using wildlife funds. Members asked what counties had a Arizona Game and Fish representative working with the planning and zoning commissions. In a generic way, all the habitat specialists in each region have a

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network with the county planning and zoning. Regions 2 and 5 are the only regions who have a full time employee assigned to work with a municipality or a county. Members were encouraged to contact your Commissioners or County Supervisors to find money to cost-share a Game and Fish representative. That representative is incredibly helpful when they sit in the meetings, questions can be answered immediately and every development proposal that comes before the committee is written-up.

- 8. Presenter:** Ric Bradford, Land Resource Program Manager, presented information about the major principles of conservation easements. A brief history outlined the development of land trusts and conservation easements. A conservation easement is a deed restriction that a landowner voluntarily places on his property. They are used to protect resources such as productive agricultural lands, ground and surface water, wildlife habitat and historic sites or scenic views. They are also used to control encroachment and to limit future subdivision of the property. Easements may cover the entire property or portions thereof and may be in perpetuity or for a limited time. Regardless of the length, the restrictions follow the property if it passes to other owners.

Individual easements can be tailored to meet the needs of specific situations. This flexibility allows for a multitude of circumstances to be incorporated into the easements but can make continuity, monitoring and enforcement of agreements difficult. Landowners can donate or sell land for a conservation easement to any qualified conservation organization or government agency. In either case the value of the easement is determined in order to establish the selling price or to calculate the tax benefit. The value of the easement is generally determined by the market value of the property while it is unencumbered. More restrictive easements or more developer pressure will raise the land values.

Advantages to the landowner is that he/she retains title to the property, the property can still be used as collateral for a loan and the landowner can protect the property into the future, as well as providing tax advantages. Disadvantages to the landowner include losing sole control of activities on his property, negative impacts to the value of the property, and can limit his ability to sell the property. The grantee's advantages include the ability to protect the land without having to buy the land, and the landowner is responsible for taxes and maintenance of the property. Disadvantages to the grantee are that they must dedicate time, manpower and funds to the easement. The conditions of the easement can be difficult to enforce due to the remoteness, large sizes and disagreements with the landowner. There can also be problems with new landowners, when they interpret the agreement differently than it was originally intended. There is also the difficulty of justifying the use of public funds if public access is denied or restricted.

The Arizona Game and Fish Department has a couple of conservation easements at this time and are pursuing several others. Current easements agreements include Santa Rosa Wash, Wickenburg Unified School District Easement, O-Bar-O Ranch Easement. Future easement agreements include 47 Ranch agreement, and the EC Bar Ranch.

Committee comment and discussion started with questions about how often the specific purpose of buying a conservation easements is to protect public access. Public access to easements is

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frequently restricted due to concerns by the landowner or access is granted if monitored by the landowner or by the grantee. Gene Sturla, Land Acquisition Program Supervisor, answered that conservation easements are not a good tool for public access. Public access is something that has to be purchased either through fee simple interest or through a right of way. Conservation easements do not have the legal implications that would be needed because of the restricted rights. Other programs like the Department's Access program is a cost-share program funded through Heritage funds with the main objective of working cooperatively with private landowners across the state to create and maintain public access. Due to the flexibility of conservation easements, it is possible that public access could be granted through the agreement if the landowner agreed.

In reality, for the Land Program, conservation easements are not a practical tool. The best use of conservation easements is when there is a large piece of property, you approach the landowner and your purpose is to extinguish the development rights. The landowner is happy, the easement is usually valued at a higher rate because of the development pressure. However, it does not work for the Arizona Game and Fish Department because our funding sources have very specific criteria. When we have to extract the criteria to satisfy the funding source, we have taken away so many of the landowner's rights, it is no longer attractive to the landowner. In addition, because these areas that are riparian, do not usually have high development rights, they do not have a lot of value to them.

Discussion further clarified the funding criteria issues that can limit the Department's use of conservation easements. The funding criteria challenge is that it needs to have endangered species value. If it does not have that, then other sources of funding have to be pursued and that funding may have other attachments that can restrict its use. By combining landscape/ecosystem/habitat-based approaches and smaller-scale approaches for planning and implementation and working with other entities, a much more diverse array of funding sources can be used. With the passage of Prop 207, will it require restructuring agreements with conservation easements? Governments will probably be a lot more careful now when they exercise eminent domain. However, since the Department has only worked with open, willing sellers, the Department probably won't have to change anything that they are doing. Although, we do have condemnation rights under Title 17, Mr. Sturla does not believe they have ever been exercised.

Further comments led to a discussion of how the Department is working on a brand new conservation easement located by Whitewater Draw, where we are working with the Arizona Open Land Trust. Tying in to the presentation by Janice Miano, it was mentioned that part of the initiative will be to broaden the criteria categories of the Heritage Fund. This will hopefully alleviate some of the restrictions to the use of Heritage Funds. It will be modeled after the Wildlife Conservation Fund, where virtually all wildlife purposes are eligible. The Wildlife Conservation Fund, which is Indian Gaming money, is really the first new money that has come into the agency that didn't specify some degree of imperilment.

Questions continued about how revenues were generated to monitor easements. The initial acquisition package that is sent before Executive Staff and the Commission has the projected operating and monitoring (O&M) requirements. Part of the review process includes analysis of what

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it will take to bring the proposed property to fruition. If the O&M can be identified at the time of acquisition, then the original fudnign source can be used. Members asked about provisions for legal council, in case one of the easements was challenged in the future. The legal documents that are used to establish a conservation easement are approved through the Attorney General's office. The Department has not been exposed to any legal proceedings dealing with easements. A member stated that his experience with monitoring conservation easements has been that as time passes, issues dealing with

9. Presenter: Rob Lever, Assistant District Fire Management Officer, and Eric Rodin, Stray Horse Assistant Foreman, Apache-Sitgreaves National Forest, gave an overview

Committee comment and discussion commended the program as an opportunity

10. Call to the Public: No members of the public requested to be heard.

11. Open Committee discussion

a) **Open Committee Discussion.** The Chairman opened discussion.

b) **Future Meetings.** The fall meeting will be at the Glendale Civic Center located at 5750 West Glenn Drive Glendale, Arizona 85301. Notice of activities and times will be forthcoming.

12. Adjournment: Committee adjourned at 12:00 pm.